

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

Langlinais

Civil Action 11-1636

versus

Judge Tucker L. Melançon

Tetra Applied Technologies, LLC

Magistrate Judge C. Michael Hill

MEMORANDUM ORDER

Before the Court is plaintiff Ted B. Langlinais's Motion To Strike the Defendant's Jury Demand [Rec. Doc. 11] and plaintiff's Supplemental Memorandum, [Rec. Doc. 14], in which plaintiff moves the Court to strike the request for jury trial filed by defendant Tetra Applied Technologies, LLC ("Tetra") in its December 9, 2011 Answer, *R. 9*, and that this matter be allowed to proceed to trial before the bench. Defendant has filed no opposition to plaintiff's motion.¹

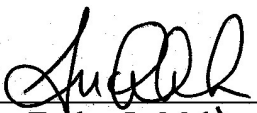
The record indicates that plaintiff elected a non-jury trial under Rule 9(h) of the Federal Rules of Civil Procedure. Rule 9(h) provides that "[i]f a claim for relief is within the admiralty or maritime jurisdiction and also within the court's subject-matter jurisdiction on some other ground, the pleading may designate the claim as an admiralty or maritime claim for purposes of Rule ... 38(e)," which allows for bench trials in maritime cases. *See* Fed.R.Civ.P. 38(e). Where the plaintiff has specifically elected to pursue a non-jury admiralty claim pursuant to Rule 9(h), the election made available to the pleader pursuant to Rule 9(h) is dispositive. *Hamm v. Island Operating Co., Inc.*, 2011 WL 5570644, 4 (5th Cir. 2011) (citing *Harrison v. Flota Mercante Grancolombiana, S.A.*, 577 F.2d 968, 986 (5th

¹ Local Rule 7.5W requires that written opposition to a motion be filed within twenty-one (21) days after service of the motion. Pursuant to L.R. 7.5W, defendant's opposition was due on January 5, 2012.

Cir.1978). It is undisputed that plaintiff made his Rule 9(h) election. Therefore, Tetra has no right to a jury trial. Accordingly, it is

ORDERED that plaintiff Ted B. Langlinais's Motion To Strike the Defendant's Jury Demand [Rec. Doc. 11] is **GRANTED**.

Thus done and signed this 9th day of January, 2012 at Lafayette, Louisiana.



Tucker L. Melançon
UNITED STATES DISTRICT JUDGE